

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CASE NO.: 1:18-CV-12121

RL 900 PARK LLC, a Florida limited liability
company,

Plaintiff,

v.

SIMONE ENDER, INDIVIDUALLY AND AS
THE EXECUTOR OF THE ESTATE OF
PAUL ANTHONY ENDER; MONIQUE
ENDER SILBERMAN; BRIGETTE LAING;
DANUTA MARYIAK, AS GUARDIAN FOR
EMELYE ENDER; JACK MANN; JOAN
MANN; UNKNOWN TENANT IN
POSSESSION #1; and UNKNOWN TENANT
IN POSSESSION #2.

Defendants.

-and-

CENTRAL PARK PARTNERS NY LLC,

Intervenor-Defendant

NOTICE OF FILING

PLEASE TAKE NOTICE that Plaintiff, RL 900 PARK, LLC, by and through its
undersigned counsel, hereby gives notice of the filing of the following document:

1. Deposition Transcript of Arthur Spitzer dated October 29, 2020.

Dated: New York, New York
November 9, 2020

Respectfully submitted,

HABER LAW, P.A.

Counsel for Plaintiff

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Miami, FL 33127

Telephone No.: (305) 379-2400

Facsimile No.: (305) 379-1106

By: s/ ROGER SLADE, ESQ.

New York Bar No.2253599

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of November 2020, a true and correct copy of the foregoing document was served via electronic mail and/or U.S. mail on all counsel or parties of record listed below:

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Zeltser Law Group, PLLC 26 Court Street Suite 1200 Brooklyn, New York 11242	New York, New York 10038
<u>VIA U.S. MAIL</u> Brigette Laing 6738 E Rovey Avenue Paradise Valley, AZ 85283	<u>VIA U.S. MAIL</u> Simone Ender 710 Park Avenue Unit 4A New York, NY 10021

Respectfully submitted,

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Counsel for Plaintiff

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Telephone No.: (305) 379-2400

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By: s/ Roger Slade, Esq.

ROGER SLADE, ESQ.

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RL 900 Park L.L.C.

vs.

Simone Ender

Deposition of:

Arthur Spitzer

October 29, 2020

Vol 1

PHIPPS REPORTING

Raising the Bar!

Arthur Spitzer
October 29, 2020

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3
4 RL 900 PARK LLC, a Florida Case No.
5 limited liability company, 1:18-CV-12121
6)
7 Plaintiff,)
8)
9 vs.)
10)
11 SIMONE ENDER, INDIVIDUALLY)
12 AND AS THE EXECUTRIX OF THE)
13 ESTATE OF PAUL ANTHONY)
14 ENDER; ARTHUR SPITZER;)
15 BRIGETTE LAING, DANUTA)
16 MARYIAK, AS GUARDIAN FOR)
17 EMELYE ENDER; JACK MANN;)
18 JOAN MANN; UNKNOWN TENANT IN)
19 POSSESSION #1, and UNKNOWN)
20 TENANT IN POSSESSION #2,)
21)
22 Defendants.)
23 -----)

14

15

16 VIDEOCONFERENCE DEPOSITION OF

17 ARTHUR SPITZER

18 New York, New York

19 Thursday, October 29, 2020

20

21

22

23

24 Reported by:
25 TAMI H. TAKAHASHI, RPR, CSR
JOB NO. 161834

Arthur Spitzer
October 29, 2020

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1 October 29, 2020

2 1:13 p.m.

3

4 Video Teleconference Deposition of
5 ARTHUR SPITZER, held via Zoom remote video
6 conferencing software in New York, New York,
7 pursuant to Notice, before TAMI H. TAKAHASHI,
8 a Registered Professional Reporter and Notary
9 Public of the State of New York.

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Arthur Spitzer
October 29, 2020

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1 A P P E A R A N C E S:

2 (All parties appearing remotely)

3

4 Representing the Plaintiff:

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7 Miami, Florida 33127

8 305.379.2400

9 BY: ROGER SLADE, ESQ.

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12 Representing the Central Park Partners NY

13 LLC:

14 ZELTSER LAW GROUP, PLLC

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17 718.831.2529

18 BY: NAOMI ZELTSER, ESQ.

19 naomi@zeltserlaw.com

20 - and -

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24 718.830.0700

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1 A P P E A R A N C E S:

2 (All parties appearing remotely)

3

4

5 A L S O P R E S E N T:

6 JULIE QUITTNER

7 BRYAN MORJAIN

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1 ----- I N D E X -----

2 WITNESS EXAMINATION BY PAGE

3 ARTHUR SPITZER MR. SLADE 7

4

5 ----- INFORMATION REQUESTS -----

6 DIRECTIONS: 13, 14, 44, 45, 57

7 RULINGS: 13

8 TO BE FURNISHED: (None)

9 REQUESTS: (None)

10 MOTIONS: (None)

11 ----- EXHIBITS -----

12 (None)

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1 IT IS HEREBY STIPULATED AND AGREED
2 by and between the attorneys for the
3 respective parties herein, that filing
4 and sealing be and the same are hereby
5 waived.

6 IT IS FURTHER STIPULATED AND AGREED
7 that all objections, except as to the
8 form of the question, shall be reserved
9 to the time of the trial.

10 IT IS FURTHER STIPULATED AND AGREED
11 that the within deposition may be signed
12 and sworn to before any officer
13 authorized to administer an oath, with
14 the same force and effect as if signed
15 and sworn to before the Court.

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1 STENOGRAPHIC REPORTER: This is
2 Tami Takahashi. I'm a Registered
3 Professional Reporter and New York State
4 notary public. This deposition is being
5 held via videoconference. The witness
6 and I are not in the same room. The
7 witness will be sworn in remotely
8 pursuant to National Emergency Section
9 319 of the Public Health Service Act and
10 Notary Executive Order 202.7. The
11 parties stipulate that the testimony is
12 being given as if the witness was sworn
13 in person.

14 A R T H U R S P I T Z E R, called as a
15 witness, having been duly sworn by a
16 Notary Public, was examined and testified
17 as follows:

18 EXAMINATION

19 BY MR. SLADE:

20 Q. Mr. Spitzer, good afternoon. My
21 name is Roger Slade, and I represent the
22 plaintiff in this lawsuit. I'm going to be
23 asking you some questions throughout the
24 course of this afternoon.

25 If you don't understand any of my

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1 questions, please tell me and I'll try to
2 clear them up so that you do understand. Is
3 that fair?

4 A. Yes.

5 Q. The court reporter can't take down
6 words like "um-hum" or nods of the head, so
7 you have to answer audibly. Do you
8 understand that?

9 A. Yes.

10 Q. Okay. Also try to let me finish my
11 question before you answer and try to allow
12 your attorney Mr. Berman to make an objection
13 if he wants before you answer to make life
14 easier for the court reporter and we have a
15 clear record. Is that okay?

16 A. Yes.

17 MR. SLADE: Could you swear him in
18 again, please. I'd like to swear the
19 witness in again one more time. I think
20 that -- I was told there was an
21 interruption when I stepped away from
22 the camera.

23 (The witness was administered the
24 oath.)

25 BY MR. SLADE:

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1 **Q. Okay. Mr. Spitzer, can you provide**
2 **a copy your driver's license?**

3 MR. BERMAN: I'm going to object.
4 What is the purpose of that?

5 MR. SLADE: Because I want to make
6 sure that I have Mr. Spitzer.

7 MR. BERMAN: Well, we will provide
8 a redacted copy of his driver's license.

9 MR. SLADE: Well, I want to have
10 his drivers's license before I spend the
11 whole afternoon deposing him. So I
12 won't make a copy of it. I just want
13 him to show it to the court reporter and
14 to me.

15 MR. BERMAN: That's fine. That's
16 fine.

17 THE WITNESS: I have a passport,
18 too.

19 MR. BERMAN: No, no, no. Driver's
20 license. You give him what he asks for.

21 (Witness showing his driver's
22 license.)

23 MR. SLADE: Okay. Thank you very
24 much.

25 BY MR. SLADE:

1 Q. Okay. So, Mr. Spitzer, what is
2 your home address?

3 A. [REDACTED],
4 New Jersey 08755.

5 Q. And are you currently employed or
6 do you have a business?

7 A. Yes.

8 Q. What's your business address?

9 A. 1500 West Blancke Street, Linden,
10 New Jersey 07036.

11 Q. And what business is it that you
12 are in?

13 A. Real estate development.

14 Q. Okay. Are you an attorney, sir?

15 A. No.

16 Q. All right.

17 MR. BERMAN: Roger, can you hold
18 for a second?

19 MR. SLADE: I'm going to ask you
20 not to take phone calls during the
21 deposition. Are you serious?

22 (Telephone interruption.)

23 BY MR. SLADE:

24 Q. Mr. Spitzer --

25 A. Yes.

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1 Q. -- do you know Naomi Zeltser?

2 A. Yes.

3 Q. Okay. And how do you know her?

4 A. She's my attorney.

5 Q. When was the first time you met
6 her?

7 A. Today.

8 Q. Okay. When was it that you
9 retained her services?

10 A. My office retained her, I believe,
11 in February -- end of February or beginning
12 of March. I don't recall the exact date.

13 Q. What is the name of your business?

14 A. Deutsch Equity.

15 Q. Okay. And what's your position
16 there?

17 A. I'm a partner.

18 Q. And what is your title?

19 A. CEO.

20 Q. Okay. One second.

21 (Brief interruption.)

22 BY MR. SLADE:

23 Q. And how long have you been in that
24 business, sir, in the real estate development
25 business?

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1 A. I've been in the real estate
2 development business since around 2016, '15,
3 maybe.

4 Q. So what did you do before that?

5 A. I had a different business, nothing
6 related.

7 Q. Can you tell me what it was?

8 A. I sold closeouts, health and beauty
9 products, that type of stuff.

10 Q. Okay. Did you graduate from
11 college?

12 A. No.

13 Q. Where did you go to high school?

14 A. I went to -- it's called Yeshiva
15 Imreia Yosef.

16 STENOGRAPHIC REPORTER: Can you
17 spell that, please.

18 THE WITNESS: Yeshiva is
19 Y-E-S-H-I-V-A, Imreia is I-M-R-E-I-A,
20 and Yosef is Y-O-S-E-F.

21 STENOGRAPHIC REPORTER: Thank you.

22 BY MR. SLADE:

23 Q. Okay. Sir, you're familiar with
24 the condominium unit that's the subject of
25 this lawsuit at 900 Park Avenue, correct?

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1 A. Somewhat familiar.

2 **Q. Well, tell me everything you know**
3 **about it, would you.**

4 MR. BERMAN: Objection, Roger.
5 That's an improper question.

6 BY MR. SLADE:

7 **Q. You can answer.**

8 DI MR. BERMAN: No, he can't.

9 MR. SLADE: I'm sorry?

10 MR. BERMAN: No, he can't. Ask
11 your questions.

12 MR. SLADE: You're not allowing him
13 to answer that question?

14 MR. BERMAN: I will not allow him
15 to answer that question.

16 MR. SLADE: And the basis is what?

17 MR. BERMAN: Because it's too
18 vague. It's not broken down. You have
19 to prepare your case better.

20 RL MR. SLADE: Okay. Note it for the
21 record. We'll take it up with the
22 judge.

23 BY MR. SLADE:

24 **Q. When did you first become aware of**
25 **the condominium unit located at 900 Park**

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1 **Avenue?**

2 A. In March, beginning of March.

3 **Q. And how did you become aware of it?**

4 A. My employee Mendy Goldstein told me
5 about this -- they were taking on this --
6 this piece of property.

7 **Q. Okay. What did you say to him and**
8 **what did he say to you?**

9 A. Meaning?

10 **Q. You don't understand what it means**
11 **to speak to somebody?**

12 DI MR. BERMAN: Objection. Don't --
13 don't answer.

14 MR. SLADE: Keep going, Mr. Berman.

15 MR. BERMAN: It's argumentative.

16 MR. SLADE: Mr. Berman, keep going,
17 keep instructing him not to answer.
18 Bring your checkbook.

19 MR. BERMAN: You're being
20 argumentative.

21 MR. SLADE: Bring your checkbook.

22 MR. BERMAN: You want to argue with
23 me, fine. That's -- you can waste your
24 whole day arguing with me, but you can't
25 be argumentative with the witness.

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1 MR. SLADE: Could you read the
2 question back, please.

3 (The following question was read:

4 "Q. Okay. What did you say to him
5 and what did he say to you?")

6 BY MR. SLADE:

7 **Q. Can you answer that question?**

8 A. I don't recall about 900 Park, what
9 was said, so --

10 **Q. Well, you agreed to purchase the**
11 **property, correct?**

12 A. It was part of a larger -- a larger
13 transaction.

14 **Q. Okay. Tell me about that**
15 **transaction, please.**

16 A. There was an opportunity of
17 purchasing a property that was in distress.
18 And that property had more debt at the time
19 than what it was considered valued. But I
20 felt it was a good deal as a developer.

21 **Q. What property was in distress?**

22 A. It's a property -- different
23 property in the city.

24 **Q. Can you tell me where it is?**

25 A. On 73rd Street.

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1 Q. Can I have the address, please.

2 A. I believe it's 51 East 73rd.

3 Q. Was that the only property that you
4 discussed with Mr. Goldstein?

5 A. That was the main focus, yes.

6 Q. Okay. So the main focus was 51
7 East 73rd Street. Did you actually purchase
8 that property?

9 A. Yes.

10 Q. Okay. And through an entity?

11 A. Yes.

12 Q. What was the name of the entity?

13 A. I don't recall.

14 Q. Okay. Who would know the answer to
15 that?

16 A. My office.

17 Q. Do you have documents which would
18 reflect the purchase of that entity?

19 A. I'm sure we do.

20 MR. BERMAN: Don't guess at
21 anything. It's what you know.

22 BY MR. SLADE:

23 Q. Where are those documents located?

24 A. I don't handle acquisitions or any
25 legal stuff. I'm strictly development. I

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1 enjoy building, that's what I do. So I have
2 Mendy Goldstein for that. I don't handle
3 that stuff.

4 **Q. So if there are documents in your**
5 **office, you wouldn't know where they were or**
6 **who has them?**

7 A. Correct.

8 **Q. Okay. So what were the terms of**
9 **the transaction regarding 51 East 73rd**
10 **Street?**

11 A. 51 East 73rd Street, there was no
12 terms.

13 **Q. Did you or an entity with which**
14 **you're affiliated acquire that property as an**
15 **acquisition?**

16 A. Yes. But there was no money
17 involved.

18 **Q. You bought it for free?**

19 MR. BERMAN: Answer his question,
20 go ahead.

21 A. There was no --

22 MR. SLADE: Do me a favor,
23 Mr. Berman. I'm going to note for the
24 record that you just said, quote, "Just
25 answer his question."

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1 MR. BERMAN: Correct.

2 MR. SLADE: Okay, not correct. You
3 are not allowed to speak on the record.
4 I don't know where you learned that.

5 MR. BERMAN: I don't know where you
6 learned your federal law, but an
7 attorney is allowed to speak on the
8 record.

9 MR. SLADE: Not when there's a
10 question pending, sir.

11 MR. BERMAN: Ask your next
12 question.

13 MR. SLADE: Please don't speak on
14 my record.

15 MR. BERMAN: Ask your next
16 question.

17 MR. SLADE: I want you to read back
18 my question.

19 I know what you're doing, it's very
20 obvious to me.

21 MR. BERMAN: Okay.

22 MR. SLADE: Totally inappropriate.

23 MR. BERMAN: What am I doing?

24 MR. SLADE: Your interrupting my
25 questioning because you think that for

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1 some reason I'm an amateur and you're
2 going to throw me off.

3 MR. BERMAN: Is that what I really
4 am thinking?

5 MR. SLADE: I think so because
6 you're speaking in the middle of my
7 questions.

8 MR. BERMAN: I'm speaking --

9 MR. SLADE: I want the record to
10 reflect that Mr. Berman continues to
11 speak on the record in the middle of my
12 question, and he's coaching the witness.
13 Do not coach the witness, Mr. Berman.

14 MR. BERMAN: What do I know?

15 MR. SLADE: Do not coach the
16 witness.

17 Could you read back my last
18 question.

19 MR. BERMAN: I thought you were a
20 better attorney than this. Come on, ask
21 your question.

22 (The following question was read:

23 "Q. You bought it for free?")

24 BY MR. SLADE:

25 **Q. Can you answer that question?**

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1 A. There was no value.

2 Q. So did you take on a mortgage with
3 respect to that property?

4 A. Yes.

5 Q. Okay. How much was the mortgage
6 for?

7 A. \$25 million.

8 Q. Okay. And when did this occur?

9 A. Also beginning of March.

10 Q. March 2020?

11 A. Correct.

12 Q. Okay. What took place first, the
13 51 East 73rd Street transaction or the
14 900 Park transaction?

15 A. Simultaneously.

16 Q. Simultaneously?

17 A. I believe so.

18 Q. Okay. So before you acquired title
19 to the 51 East 73rd Street property, you knew
20 there was a mortgage on it, correct?

21 A. Correct.

22 Q. Okay. And you also knew there was
23 a mortgage on -- with respect to the 900 Park
24 property as well, correct?

25 A. Whatever shows on public records,

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1 that's what we knew.

2 Q. Okay. Did you inquire before you
3 took title, either in your individual name or
4 through a company, whether the 51 East 73rd
5 Street mortgage was current?

6 A. It was all on public record. I
7 knew what's going to come up on title.

8 Q. Okay. That's not going to come up
9 on title, whether the mortgage is current;
10 would you agree with me?

11 A. If there's a lis pendens, there
12 will.

13 Q. Okay. I didn't ask you that. I
14 asked you whether you inquired before your
15 company took title to the 51 East 73rd Street
16 property whether the mortgage was current.

17 A. I don't know.

18 Q. Who would know the answer to that?

19 A. Mendy Goldstein.

20 Q. Okay. You testified that the
21 property was in distress; do you remember
22 telling me that?

23 A. Yes.

24 Q. And when you said "distress," what
25 you meant was the property was in default of

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1 **the mortgage; isn't that true?**

2 MR. BERMAN: Objection. Ask him
3 what he meant. Don't tell him what he
4 meant.

5 A. It was over --

6 MR. BERMAN: Ask him what he meant.
7 He'll tell you.

8 MR. SLADE: Okay. I think we're
9 going to have to get a ruling from the
10 Court.

11 MR. BERMAN: Good.

12 MR. SLADE: Because I'm not going
13 to let you do this, Mr. Berman. You're
14 not going to be able to coach the
15 witness.

16 MR. BERMAN: I'm not coaching him.
17 I'm not going to let you put words in
18 his mouth. He -- you want to know what
19 he means, ask him.

20 MR. SLADE: I did ask him. I want
21 an answer to my question.

22 MR. BERMAN: No, you did not.

23 MR. SLADE: Don't interrupt.
24 Please don't interrupt my deposition.
25 I'm going to ask you one more time. I'm

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1 being very patient with you.

2 Can you read back the last
3 question.

4 (The following question was read:

5 "Q. And when you said 'distress,'
6 what you meant was the property was in
7 default of the mortgage; isn't that
8 true?")

9 BY MR. SLADE:

10 **Q. Can you answer that question?**

11 A. No.

12 **Q. Why not?**

13 A. It's not true.

14 **Q. Well, you just answered it. So**
15 **either you can answer it or you can't answer**
16 **it. I mean, I don't understand -- I'm just**
17 **trying to get your testimony.**

18 MR. BERMAN: Why are you being
19 argumentative? Ask him questions. You
20 want to put him on the witness stand?
21 During trial you can be all the
22 argument -- argumentative as you want.
23 This is a deposition. It's to get
24 information.

25 MR. SLADE: Mr. Berman --

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1 MR. BERMAN: Yes.

2 MR. SLADE: -- I'm going to tell
3 you what I'm doing in my deposition.
4 You're not going to tell me.

5 MR. BERMAN: Fine. Ask him a
6 question.

7 MR. SLADE: I did.

8 MR. BERMAN: Don't tell him what he
9 means. Don't tell him -- don't be
10 argumentative. And ask a proper
11 question.

12 BY MR. SLADE:

13 Q. Sir, isn't it true that you knew
14 before you took on the 51 East 73rd Street
15 property that the property was in distress;
16 you knew that, didn't you?

17 A. It was overleveraged.

18 Q. What did you mean by
19 "overleveraged"?

20 A. There was more debt than the --
21 what the building was valued on the street.

22 Q. And did you know whether or not the
23 mortgage was current or not?

24 A. No.

25 Q. And you never asked that?

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1 A. I wasn't involved.

2 Q. So your answer is no, you didn't
3 ask that?

4 MR. BERMAN: Objection. His answer
5 is what it is.

6 BY MR. SLADE:

7 Q. And Mr. Goldstein never asked
8 whether the property mortgage was current,
9 correct?

10 A. I don't know.

11 Q. Sorry?

12 A. I don't know.

13 Q. Okay. What about the 900 Park
14 Avenue property, did you ever make an inquiry
15 about whether the mortgage was current?

16 A. Only what showed on public records.

17 Q. So you purchased the property from
18 an individual, is that not right, the
19 900 Park Avenue property?

20 A. I don't recall.

21 Q. You don't know who you bought the
22 property from?

23 A. I don't recall if it was LLC or
24 individual. I don't recall.

25 Q. Okay. You are an owner of a

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1 company called Central Park Partners; isn't
2 that true?

3 A. Yes.

4 Q. Okay. And you caused that company
5 to be formed in or about March 2020, correct?

6 A. Correct.

7 Q. And the purpose of that company was
8 to acquire title to the 900 Park Avenue
9 condominium?

10 A. The purpose was for 73rd Street.
11 900 Park was just an add-on because they
12 wanted money.

13 Q. Who wanted money?

14 A. The owners.

15 Q. Okay. And who are the owners?

16 A. Simone Ender.

17 Q. Well, you used the plural,
18 "owners." Who else did you mean?

19 A. I don't know who else she is
20 involved with.

21 Q. Have you ever met Simone Ender?

22 A. No.

23 Q. Have you ever spoken to Simone
24 Ender on the phone?

25 A. No.

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1 Q. Have you ever met Monique
2 Silberman?

3 A. No.

4 Q. Have you ever spoken to Monique
5 Silberman on the phone?

6 A. Yes.

7 Q. Okay. When was the first time you
8 spoke to Monique Silberman on the phone?

9 A. I don't recall.

10 Q. Was it more than six months ago?

11 A. I really don't remember.

12 Q. Do you have a personal or
13 professional relationship with Monique
14 Silberman outside the business dealings with
15 her mother's properties: 51 East 73rd Street
16 and 900 Park Avenue?

17 A. No.

18 Q. Okay. Do you recall whether you
19 had one conversation or more than one
20 conversation with Monique Silberman?

21 A. I don't recall.

22 Q. Was it 5 conversations, was it 10
23 conversations?

24 A. I really don't recall.

25 Q. Do you recall attending a meeting

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1 at Simone Ender's apartment to discuss her
2 real estate issues?

3 A. No.

4 Q. Do you know whether Mr. Goldstein
5 attended a meeting at Ms. Ender's apartment
6 to discuss her real estate issues?

7 A. I don't know.

8 Q. Did you ever talk to Mr. Goldstein
9 about that?

10 A. No.

11 Q. Okay. Well, you testified earlier,
12 before Mr. Berman interrupted my question,
13 that you had spoken to Mr. Goldstein about
14 these two properties, the 51 East 73rd Street
15 and the 900 Park Avenue. Do you remember
16 telling me that?

17 A. Yes.

18 Q. Did you have one conversation with
19 him about these properties or more than one
20 conversation?

21 A. I don't recall how many.

22 Q. Can you give me your best estimate
23 sitting here today?

24 A. No.

25 Q. Okay. Do you recall what you said

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1 to him?

2 A. Discussed only development on my
3 part.

4 Q. Well, these are properties that are
5 already in existence, right? 51 East 73rd
6 Street and 900 Park Avenue, there's nothing
7 to be built there; am I right?

8 A. That's wrong.

9 Q. Oh, really? So tell me what there
10 is to build.

11 A. East 73rd, there's a development
12 project.

13 Q. Okay. So 51 East 73rd Street is an
14 undeveloped piece of real estate?

15 A. Have you ever heard of "rehab"?

16 Q. I -- it's not that I never heard of
17 it, but I need you to tell me because I
18 wasn't there.

19 A. It's dilapidated. It's not -- it's
20 not useful. It's bricks, but that's all it
21 is.

22 Q. Okay. So you -- you were involved
23 in discussing it -- a rehab of the 51 East
24 73rd Street property, correct?

25 A. Correct.

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1 Q. And -- but there was no rehab at
2 the 900 Park Avenue property; is that fair?

3 A. Correct.

4 Q. Okay. So tell me what type of
5 rehab you discussed with Mr. Goldstein
6 regarding the 51 East 73rd Street property.

7 A. I don't think it's relevant.

8 Q. Really not up to you whether it's
9 relevant. It's up to me and the judge, of
10 course. Can you answer the question?

11 A. I really don't think it's relevant.

12 Q. Sir, if I'm correct, and I
13 understand for the record you're refusing to
14 answer that question?

15 A. Discussed of what potential could
16 be done in the building to make it best use
17 and maximize it. That's all.

18 MR. SLADE: Mr. -- Mr. Spitzer, I
19 would like you to please point the
20 camera in such a manner so I can see
21 your attorney because I hear his
22 whispering to you off the record.

23 MR. BERMAN: I'm not whispering
24 anything. I told him to answer the
25 question. Maybe you need a hearing aid.

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1 MR. SLADE: Do me a favor, don't
2 tell him anything.

3 MR. BERMAN: Maybe you're just
4 trying to foul up this record.

5 MR. SLADE: Don't tell him anything
6 while a question is pending.

7 MR. BERMAN: Question wasn't
8 pending. He said he wasn't going to
9 answer it.

10 MR. SLADE: Mr. Berman, I would
11 like you to appear on the camera.

12 MR. BERMAN: You can ask me.

13 MR. SLADE: I am asking you.
14 Please appear on the camera so I can see
15 you.

16 MR. BERMAN: Sure.

17 MR. SLADE: Thank you.

18 BY MR. SLADE:

19 Q. Okay. So is it the case that there
20 was no development to be done with the
21 900 Park Avenue property; am I right?

22 A. Not that I know of.

23 Q. Okay. So you took title to the 51
24 East 73rd Street property with \$25 million
25 worth of debt on it?

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1 A. Yes.

2 Q. Did you procure or obtain
3 permission from the lender before you did
4 that?

5 A. I don't know.

6 Q. Who would know the answer to that?

7 A. Mendy Goldstein.

8 Q. Okay. Is your company or are you
9 paying the mortgage on the 51 East 73rd
10 Street property?

11 A. I don't know.

12 Q. Well, what is it that you do know
13 about the 51 East 73rd Street property? You
14 took title to the property. You're doing a
15 rehab on the property. Isn't somebody --
16 there's \$25 million worth of debt. Isn't
17 somebody paying the mortgage?

18 A. Again, I deal with the development
19 parts, nothing financials, nothing
20 transactional. That's not my -- not my
21 field.

22 Q. So have you started the
23 development?

24 A. We're working on plans.

25 Q. Have you given consideration to

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1 whether or not the mortgage on the 900 Park
2 Avenue property is going to be paid?

3 MR. BERMAN: Can you repeat the
4 question.

5 BY MR. SLADE:

6 Q. Have you given consideration to
7 whether the mortgage on the 900 Park Avenue
8 property is going to be paid?

9 A. I don't know.

10 Q. Well, I mean, sir, you are the
11 owner of Central Park Partners, are you not?

12 A. Yes.

13 Q. And you are now the owner of the
14 property at 900 Park Avenue, correct?

15 A. Correct.

16 Q. And there's a mortgage on the
17 property, correct?

18 A. Correct.

19 Q. And you're aware of it, correct?

20 A. Correct.

21 Q. And now you know that there's a
22 federal court lawsuit pending over that
23 mortgage on that property, correct?

24 A. Correct.

25 Q. So my question to you then is:

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1 Knowing all these things, you're the owner of
2 the company, you're now the owner of the
3 property through the company. Are you
4 planning to pay the mortgage, yes or no?

5 A. When I took it over, I knew the
6 mortgage was being paid by the tenant.
7 That's all I know.

8 Q. You didn't answer my question. My
9 question is whether you plan to pay the
10 mortgage now that Central Park Partners is
11 the owner?

12 A. I have to discuss it with people.
13 I don't know.

14 Q. Who are your people that you have
15 to discuss it with?

16 A. Mendy Goldstein.

17 Q. Okay. But you're aware now that
18 there's a federal court lawsuit pending
19 regarding this because you're involved in the
20 deposition, right?

21 A. Yes.

22 Q. Okay. So you've already testified
23 that you are the owner of Central Park
24 Partners, which is a New York limited
25 liability company, correct?

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1 A. Correct.

2 Q. And you're the sole owner; am I
3 right?

4 A. Yes.

5 Q. Okay. And are you also the manager
6 of the company?

7 A. Yes.

8 Q. So you're the decision-maker,
9 correct?

10 A. Correct.

11 Q. Are you a nominee for some other
12 person or are you really the owner?

13 A. I'm the owner.

14 Q. Okay. At what point did you become
15 aware of the mortgage on the 900 Park Avenue
16 property?

17 A. Just the mortgage?

18 Q. Just the mortgage.

19 A. We knew all along.

20 Q. Okay. At what point did you become
21 aware of this lawsuit?

22 A. I don't recall.

23 Q. So is it possible that you became
24 aware of the lawsuit before you purchased the
25 property?

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1 A. No.

2 Q. So if you don't recall, how do you
3 know that?

4 A. I know it was summertime. I don't
5 know it was June or July or May, but it was
6 in the summertime.

7 Q. That you became aware of the
8 lawsuit?

9 A. Correct.

10 Q. And how did you learn of that?

11 A. Mendy Goldstein has mentioned it to
12 me.

13 Q. How did he hear of it?

14 A. I don't know.

15 Q. Well, you know, don't you, that
16 Naomi Zeltser also represented Monique
17 Silberman, don't you?

18 A. I don't know.

19 Q. Do you know that Naomi Zeltser also
20 represented Simone Ender, don't you?

21 A. I don't know.

22 Q. Now, you're aware -- well,
23 withdrawn.

24 Have you had an opportunity since
25 you learned about the lawsuit to review the

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1 loan documents which encumber the property?

2 A. No.

3 Q. So you've never looked at them?

4 A. No.

5 Q. Okay. Who is it that's paying the
6 attorney's fees for Central Park Partners in
7 this case?

8 A. I am.

9 Q. Okay. And what is your objective
10 with respect to your continued litigation of
11 this case; what is it you're hoping to
12 accomplish?

13 A. I don't know.

14 Q. Well, you're spending money on
15 legal fees and you're fighting a federal
16 court lawsuit. Don't you think you should
17 have an understanding of what your objectives
18 are?

19 A. I trust my people.

20 Q. Who are your people?

21 A. Mendy Goldstein.

22 Q. Well, I guess my question to you
23 is: Do you know or do you realize that you
24 have or may have personal liability in
25 connection with this lawsuit?

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1 A. I don't know.

2 Q. Okay. Do you have any reason to
3 doubt that the loan that was made to Simone
4 Ender by my client in this case was a
5 business loan?

6 A. I have no idea.

7 Q. Okay. Could you explain to me the
8 relationship, if any, between the 51 East
9 73rd Street acquisition and the 900 Park
10 Avenue acquisition?

11 A. All I know, it was taken all
12 together.

13 Q. Do you know why it was taken all
14 together?

15 A. Because she wanted we should pay
16 some debt of hers, personal debt.

17 Q. And when you say "hers," you mean
18 Simone Ender, correct?

19 A. Correct.

20 Q. Okay. And what was the personal
21 debt that she wanted you to pay?

22 A. I don't recall everything, but I
23 know her main issue was she owed a lot of
24 maintenance money.

25 Q. For what properties?

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1 A. I don't -- I think her personal.

2 Q. You think what?

3 A. I'm not sure.

4 Q. Do you know how much it was that
5 she owed?

6 A. Around 250.

7 Q. \$250,000, correct?

8 A. Correct.

9 Q. And did you offer to pay that as
10 part of the acquisition of these two
11 properties, 51 East 73rd Street and 900 Park
12 Avenue?

13 A. Correct.

14 Q. And was that an oral agreement or
15 written agreement?

16 A. I don't know.

17 Q. Who would know the answer to that?

18 A. Mendy Goldstein.

19 Q. Were those monies ever paid?

20 A. I don't recall.

21 Q. Well, \$250,000 is a lot of money,
22 wouldn't you agree with me?

23 A. Yes.

24 Q. So who was supposed to pay the
25 \$250,000?

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1 A. The company was going to pay it.

2 Q. Central Park Partners, right?

3 A. Correct.

4 Q. That's your company that you are
5 the owner of?

6 A. I said I don't deal with finances.

7 Q. Okay. So even though it's your
8 company, you have no idea whether the money
9 was supposed to be paid or was, in fact,
10 paid; am I right?

11 A. I don't know how much was paid, and
12 what was paid and what not. I don't know.

13 Q. So who is it that provides funding
14 for Central Park Partners; is that you
15 personally, Mr. Goldstein or somebody else?

16 A. I don't see the relevance.

17 Q. Okay. You can answer the question,
18 anyway.

19 A. Comes through me. I have investors
20 and whatnot.

21 Q. Who are the investors on the
22 900 Park Avenue property?

23 A. No investors on 900 Park Avenue.

24 Q. There's no investors. It's just
25 you?

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1 A. Yes.

2 Q. So if you were going to pay
3 \$250,000 or you had an agreement to pay
4 \$250,000, where was that money going to come
5 from?

6 A. That's not relevant.

7 Q. Okay. You can answer.

8 A. I don't know the answer.

9 Q. So this agreement to pay the
10 \$250,000 was an oral agreement, it was never
11 committed to writing; am I correct?

12 A. I don't know.

13 Q. Okay. Since you acquired the
14 property at 900 Park Avenue, have you made
15 any efforts to sell it?

16 A. No.

17 Q. Why not?

18 A. I don't know. I'm not involved in
19 that stuff.

20 Q. Have you made any efforts to rent
21 it?

22 A. I have no idea.

23 Q. Who would know the answer to that?

24 A. Mendy Goldstein.

25 Q. What about -- what about the

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1 **monthly assessments; have you made any effort**
2 **to pay the condominium, the monthly**
3 **assessments?**

4 MS. ZELTSER: Will you let him know
5 that I'm physically present.

6 MR. BERMAN: Ms. Zeltser wants the
7 record to note that she's physically
8 present.

9 MR. SLADE: Okay, that's fine. But
10 just, Naomi, please don't make comments
11 in the middle of a question. Just wait.

12 MS. ZELTSER: No problem. I just
13 want you to know that I'm here, okay?

14 MR. SLADE: I'm very happy that
15 you're here. But I just want you to
16 know that there was a question pending.
17 I want to make sure the witness heard
18 the question and the record to be clear.
19 So let me try it again.

20 BY MR. SLADE:

21 **Q. Is Central Park Partners making any**
22 **effort to pay the condominium assessments,**
23 **now that it's the owner of the 900 Park**
24 **Avenue property?**

25 A. I don't know. I have to check.

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1 Q. Well, don't you think, as the owner
2 of a piece of real estate in a condominium,
3 you should be paying the assessments?

4 A. I don't know.

5 Q. Other than the deals for the 51
6 East 73rd Street and 900 Park Avenue, have
7 you, Mr. Goldstein or anyone at your company
8 done any other business deals either with
9 Simone Ender or Monique Silberman?

10 A. I don't think so.

11 Q. Okay. Do you go to the same temple
12 as Monique Silberman?

13 A. No.

14 Q. Do you know if Mr. Goldstein goes
15 to the same temple as Monique Silberman or
16 Simone Ender?

17 A. I don't know.

18 Q. Do you know the basis of
19 Mr. Goldstein's relationship with Monique
20 Silberman or Simone Ender?

21 A. No.

22 Q. Well, let me ask you a question,
23 sir. You're an owner of Central Park
24 Partners, correct?

25 A. Yes.

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1 **Q. You're a defendant in this lawsuit**
2 **pending in federal court in New York,**
3 **correct?**

4 A. Yes.

5 **Q. What is your defense to this case?**

6 MR. BERMAN: Objection. That's a
7 legal thing.

8 BY MR. SLADE:

9 **Q. You can answer.**

10 DI MR. BERMAN: No, he can't. His
11 lawyer can do that.

12 MS. ZELTSER: You're instructing
13 him not to answer?

14 MR. BERMAN: Yes, I am.

15 MR. SLADE: Could you please state
16 that clearly on the record.

17 MR. BERMAN: I did.

18 MR. SLADE: No, I want to make sure
19 that I heard that and the court reporter
20 has that down.

21 MR. BERMAN: Next question, Roger.

22 MR. SLADE: Well, let the record
23 reflect, since Mr. Berman refuses to
24 voice his objection on the record in a
25 clear manner, I'm going to phrase it for

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1 the court reporter.

2 My understanding is that I asked
3 Mr. Spitzer what -- his client what his
4 defense was to this case, and Mr. Berman
5 instructed him not to answer on the
6 grounds that it was a, quote, legal
7 question. So that's clear for the
8 record.

9 BY MR. SLADE:

10 **Q. Mr. Spitzer, you don't have any**
11 **defense to this case, do you?**

12 DI MR. BERMAN: Objection.

13 Don't answer.

14 BY MR. SLADE:

15 **Q. You can answer.**

16 MR. BERMAN: No.

17 MR. SLADE: You're instructing him
18 not to answer again?

19 MR. BERMAN: I -- can you show me
20 where he's named as a defendant?

21 MS. ZELTSER: He never amended the
22 caption.

23 MR. BERMAN: He never amended the
24 caption?

25 MS. ZELTSER: No.

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1 MR. BERMAN: So he's not a
2 defendant. The paper that I'm holding
3 here --

4 MS. ZELTSER: Tell him how to do
5 his job.

6 MR. BERMAN: The papers that I'm
7 holding here, he's not a defendant, so
8 he doesn't have to defend this.

9 MR. SLADE: Mr. Berman, Judge
10 Fiscusel entered an order on this. Are
11 you serious?

12 MR. BERMAN: Sir --

13 MS. ZELTSER: We're talking about
14 your notice of deposition. It doesn't
15 include Central Park. That's what he's
16 noticing.

17 MR. SLADE: Okay. Do you want me
18 to have it re-sent to you?

19 MS. ZELTSER: No, it's okay.

20 MR. SLADE: Can you stipulate on
21 the record, Naomi, since you're counsel
22 of record that Mr. Berman has not made
23 an appearance in this case other than a
24 deposition; that Central Park Partners
25 is a party to this lawsuit as an

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1 intervenor defendant? Can we stipulate
2 to that.

3 MS. ZELTSER: Yes, we can.

4 MR. SLADE: Okay, good. Thank you,
5 I appreciate that.

6 MS. ZELTSER: You're welcome.

7 BY MR. SLADE:

8 Q. So you are aware, are you not, sir,
9 sitting here today that the 900 Park Avenue
10 property which has held title in the name of
11 Central Park Partners is in a federal court
12 foreclosure lawsuit, correct?

13 A. Yes.

14 Q. And you're aware that if the court
15 grants summary judgment, you could lose the
16 property, correct?

17 A. Yes.

18 Q. And you're also aware, are you not,
19 that interest is accruing on the mortgage on
20 that property, correct?

21 A. Yes.

22 Q. And you're also aware now that the
23 mortgage is in default, correct?

24 A. Yes.

25 Q. And you're aware, are you not, that

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1 the mortgage has a provision for default
2 interest, are you not?

3 A. Yes.

4 Q. And you're also aware that the
5 mortgage and the note have a provision for
6 attorney's fees, correct?

7 A. Okay.

8 Q. You understand that, don't you?

9 A. Okay, yeah.

10 Q. So the continued litigation of this
11 case is causing additional attorney's fees to
12 be expended. You're aware of that, are you
13 not?

14 A. Okay.

15 Q. So if there's any equity in the
16 property, it's being now eaten away by the
17 interest, the default interest and the
18 attorney's fees; are you aware of that?

19 A. Okay.

20 Q. Have you made an analysis of the
21 value of this property?

22 A. I have to check.

23 Q. Well, I mean, sir, you're the owner
24 of the property through an entity in which
25 you are the sole owner and manager. You're

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1 telling me that you don't know how much it's
2 worth?

3 A. Things change. New York is a very
4 scary place now.

5 Q. Okay. Do you know whether, when
6 you acquired the 900 Park Avenue property,
7 you paid any taxes?

8 A. I don't know.

9 Q. Transfer taxes?

10 A. I don't know.

11 Q. Who would know the answer to that?

12 A. I assume Mendy Goldstein.

13 Q. Is Central Park Partners a related
14 entity to -- in any way to Simone Ender?

15 A. No.

16 Q. Are you or is Central Park Partners
17 in business or partners in business with
18 Simone Ender or Monique Silberman?

19 A. No.

20 Q. Your attorneys have taken the
21 position in court, and you have taken the
22 position in court, that the loan which was
23 issued by RL 900 Park Avenue to Simone Ender
24 was predatory. Are you aware of that?

25 A. I don't know.

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1 Q. Do you believe that the loan that
2 was issued to Simone Ender by RL 900 Park or
3 its predecessor was in any way predatory?

4 A. I really don't know.

5 Q. Do you know what it means that --
6 for a loan to be predatory?

7 A. No.

8 Q. Did you ever take out any title
9 insurance on this property?

10 A. I don't know.

11 Q. Did you hire a title insurance
12 company to do a search in connection with
13 this property?

14 A. It was hired. I didn't hire it.

15 Q. Who hired them?

16 A. Mendy Goldstein.

17 Q. Just to back up a question. And if
18 I asked you this, I'm sorry.

19 But did you ever pay Simone Ender
20 the \$250,000?

21 A. I don't know.

22 Q. Do you know whether Simone Ender
23 ever disclosed to you or to Mr. Goldstein
24 before you acquired the property the
25 existence of this lawsuit?

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1 A. What?

2 MR. SLADE: Could you read it back,
3 please.

4 (The following question was read:

5 "Q. Do you know whether Simone
6 Ender ever disclosed to you or to
7 Mr. Goldstein before you acquired the
8 property the existence of this
9 lawsuit?")

10 A. Not to me.

11 BY MR. SLADE:

12 Q. Who is Joel Rosenzweig?

13 A. I have no idea.

14 Q. Did you have any role with respect
15 to filling out a real property transfer
16 report which was filed with the State of
17 New York --

18 A. I don't know.

19 Q. -- for the sale of this property?

20 MR. BERMAN: I didn't get the last
21 part of your question.

22 BY MR. SLADE:

23 Q. Did you have any role or
24 involvement in connection with the filing of
25 the real property transfer report with the

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1 State of New York in connection with the sale
2 of this property?

3 A. It's not my job. I don't recall.

4 Q. Okay. So you know nothing about
5 that?

6 A. I don't know.

7 Q. Have you ever seen a copy of the
8 notice of pendency that was filed in this
9 case?

10 A. I don't recall.

11 Q. Well, let's take a look at it since
12 we marked it previously. I'm going to refer
13 you to Exhibit 2 which was marked at the
14 deposition of Mendy Goldstein. I'm going to
15 ask if you've ever seen that document before.

16 A. No.

17 Q. Okay. Let's show you what we
18 marked -- I believe it's Exhibit 3.

19 MR. BERMAN: This whole package?

20 MR. SLADE: I can't answer your
21 question. I don't understand it. So
22 I'm going to -- I'm going to object to
23 your question.

24 MR. BERMAN: Sure. This thing has
25 about 50 pages. Is that what you're

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1 showing him or do we have too much of
2 it?

3 MR. SLADE: I'm showing him what
4 was marked before in the prior
5 deposition as Exhibit 3.

6 MR. BERMAN: Okay.

7 MR. SLADE: Which is a notice of
8 pendency.

9 THE WITNESS: This was filed in
10 July, right?

11 BY MR. SLADE:

12 Q. Well, let me pull it up on a
13 separate computer because this one is not --
14 hold on a second. All right. Give me a
15 second.

16 (Brief interruption.)

17 BY MR. SLADE:

18 Q. Okay. I'm going to show you what
19 we marked as Exhibit 3 for identification,
20 which is a copy of notice of pendency and the
21 notice of finding and a notice of amended
22 pendency -- I'm sorry.

23 It's a notice of filing containing
24 a copying of an amended notice of pendency
25 dated July 2, 2020.

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1 I'm going to ask if you've ever
2 seen that before.

3 A. No.

4 Q. Okay. Sir, do you have an email
5 address?

6 A. Yes.

7 Q. Do you have more than one email
8 address?

9 A. No, I don't recall.

10 Q. What is your email address that you
11 use for business?

12 A. Arthur@deutschequity.com.

13 Q. Could you spell that?

14 A. D-E-U-T-S-C-H, E-Q-U-I-T-Y,
15 dot-com.

16 Q. Before this deposition took place
17 today, did you make any effort to search your
18 emails?

19 A. Today?

20 Q. Before the deposition took place
21 today, did you make any effort to search your
22 emails?

23 A. I don't think so, no.

24 Q. Did you ever make any effort to
25 search your emails for correspondence with

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1 **Mendy Goldstein about the 900 Park Avenue**
2 **property?**

3 A. Yes.

4 Q. **When did you do that?**

5 A. A while back Naomi asked for
6 emails.

7 Q. **When?**

8 A. I don't recall.

9 Q. **More than two weeks ago?**

10 A. I don't recall.

11 Q. **More than a month ago?**

12 A. Could be. I don't recall.

13 Q. **Did you find any emails?**

14 A. No.

15 Q. **Did you search your email with**
16 **respect to any correspondence you might have**
17 **had with Simone Ender?**

18 A. No.

19 Q. **You didn't search for emails for**
20 **that correspondence, or you searched and you**
21 **didn't find anything?**

22 A. I didn't find anything on 900 Park.

23 Q. **Did you search your emails for any**
24 **correspondence you had with Monique Silberman**
25 **either about 900 Park or 51 East 73rd Street?**

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1 A. Yes.

2 Q. And did you find anything?

3 A. No.

4 Q. What about text messages; you have
5 a cell phone, don't you?

6 A. Yes.

7 Q. What kind of cell phone do you
8 have?

9 A. A Samsung -- not a Samsung. I
10 don't know what it's called. Plus One
11 something. I don't know. Android.

12 Q. Sir, what's your cell phone number?

13 MR. BERMAN: Objection. Don't --
14 you're not entitled to that.

15 MR. SLADE: Well, I need to make a
16 search in my client's records to see
17 whether there's any text correspondence
18 between my client and Mr. Spitzer. So I
19 do need that. We'll keep it
20 confidential for the purposes of the
21 lawsuit.

22 BY MR. SLADE:

23 Q. So I'm going to ask again one more
24 time through your attorney: Can you please
25 give me your cell phone number?

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1 MR. BERMAN: I'm going to object to
2 that.

3 MR. SLADE: Say it again. I can't
4 hear you, sir.

5 MR. BERMAN: I'm going to object to
6 that.

7 MR. SLADE: Are you going to
8 instruct him not to provide the
9 information?

10 DI MR. BERMAN: Cell phone, yes.

11 MR. SLADE: Okay.

12 BY MR. SLADE:

13 Q. Sir, do you recall signing an
14 affidavit in this case?

15 A. I don't know.

16 MR. BERMAN: He's being shown
17 something dated -- check the last
18 page -- 6/29/20. Is that what you're
19 referring to, Roger?

20 MR. SLADE: Affidavit of
21 Mr. Spitzer, yes. I'm checking the date
22 now.

23 MR. BERMAN: Okay.

24 MR. SLADE: I think this was marked
25 previously at the deposition. I don't

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1 see a number on this one.

2 MR. BERMAN: I'm giving you --

3 MR. SLADE: I'm sorry?

4 MR. BERMAN: I'm just giving you a
5 filing date. It says document 191-1.

6 MR. SLADE: Right.

7 MR. BERMAN: 6/29/2020. Is that
8 what you're referring to?

9 MR. SLADE: Correct.

10 MR. BERMAN: Okay.

11 BY MR. SLADE:

12 Q. That document was marked previously
13 as Exhibit 5 to the deposition of Mendy
14 Goldstein. So I'm going to show you that.
15 I'm going to ask you if you've ever seen that
16 affidavit before.

17 A. Yes.

18 Q. Okay. Do you recognize your
19 signature at the end?

20 A. Yes.

21 Q. Okay. So let's go through it. In
22 paragraph 3, your affidavit says, "As more
23 fully illustrated in my attorney's Memorandum
24 of Law, this action should be dismissed as a
25 matter of law based upon Plaintiff's failure

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1 to properly file a lis pendens against the
2 Property in order to adequately provide
3 notice of this action."

4 Do you see that?

5 A. Yes.

6 MR. BERMAN: Read the whole thing.

7 (Witness reviewing document.)

8 BY MR. SLADE:

9 Q. Do you see that?

10 A. Yes.

11 Q. Do you know whether this lawsuit
12 was dismissed by the Court?

13 A. I don't know.

14 Q. Who would know the answer to that?

15 A. My attorney.

16 Q. Okay. Other than the failure to
17 file a lis pendens, are you aware of any
18 other defense that you have in this case?

19 A. I don't know.

20 Q. Okay. The next sentence says,
21 "Alternatively, Central Park seeks to
22 intervene in this action in order to preserve
23 its rights in the foreclosure and defend
24 itself in accordance with applicable laws."

25 Do you see that?

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1 A. Yes.

2 Q. What right -- do you see that?

3 Mr. Spitzer, what rights do you think you
4 have?

5 A. Ask my attorney.

6 Q. Okay. So the answer is you don't
7 know?

8 A. Correct.

9 Q. Paragraph 7, could you please read
10 that to me.

11 A. "The Lis Pendens did not come up on
12 the title report I ordered prior to
13 purchasing the property."

14 Q. Is that statement true?

15 A. Yes.

16 Q. Okay. But you testified earlier
17 today, didn't you, that you didn't order the
18 title report; someone else did. True or
19 false?

20 A. It was ordered on my behalf.

21 Q. That's not what it says here. It
22 says, "The Lis Pendens did not come up on the
23 title report I ordered prior to purchasing
24 the property," correct? So was that a
25 mistake?

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1 A. You know what it means.

2 **Q. Sorry?**

3 A. It was ordered on my behalf.

4 **Q. Okay. So you didn't order it; am I**
5 **right?**

6 A. I don't recall.

7 **Q. I couldn't hear your answer.**

8 MR. BERMAN: "I don't recall."

9 MR. SLADE: No, no. Sir --

10 THE WITNESS: I don't recall.

11 MR. SLADE: Mr. Berman, I just
12 don't know what's possessing you to
13 answer my questions.

14 MR. BERMAN: You said you didn't
15 hear his answer. I gave you his answer.

16 MR. SLADE: No, sir, you're not
17 allowed to do that. He has to answer.

18 MR. BERMAN: He did. You said "I
19 didn't hear you."

20 MR. SLADE: When I say that, he has
21 to repeat it, not you.

22 MR. BERMAN: The court reporter
23 repeats it.

24 MR. SLADE: Look, if -- I could ask
25 him the same question 20 times if I

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1 want. He has to answer it. He's the
2 witness, not you. If you want, we can
3 swear you in next.

4 MR. BERMAN: I won't do it. You'll
5 ask the reporter next time.

6 MR. SLADE: Don't tell me what to
7 do. If I want him to repeat the answer
8 because I didn't hear it, I'm going to
9 ask him to do it.

10 MR. BERMAN: Why are you going --

11 MR. SLADE: Please don't interrupt.
12 This is like the tenth time.

13 MR. BERMAN: Listen, you're going
14 around in circles not accomplishing
15 anything.

16 MR. SLADE: Listen, I am not afraid
17 of you or your speaking objections on
18 the record. You're not impressing me.
19 You are not, okay?

20 MR. BERMAN: And you're not
21 impressing me.

22 MR. SLADE: Good. Well, that's not
23 my job. My job is not to impress you.

24 BY MR. SLADE:

25 **Q. Paragraph 8. "Plaintiff is**

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1 requesting nearly \$2,000,000 on this loan,
2 the legal fees requested alone is \$140,000."

3 Do you see that?

4 A. Okay.

5 Q. How do you know that?

6 A. My lawyer told me.

7 Q. So you don't have any independent
8 knowledge, right?

9 A. No.

10 Q. It says in the last sentence of
11 paragraph 8, "I was not prepared to have to
12 hire legal counsel and incur legal fees on a
13 foreclosure action in which I was not a party
14 to and having to step in the 'shoes' of a
15 defaulting defendant."

16 Do you see that?

17 A. Yes.

18 Q. Well, now you're in that position,
19 are you not? You are now defending a
20 foreclosure case, correct?

21 A. Correct.

22 Q. Paragraph 9, it says, "I
23 respectfully request that this action is
24 dismissed as I am gravely prejudiced by it
25 and the amount of arrears (default interest,

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1 legal fees, and miscellaneous fees) that is
2 being claimed additionally by Plaintiff in
3 its proposed judgment."

4 Do you see that?

5 A. Yes.

6 Q. Okay. But you realize, don't you,
7 that the longer that you defend the case, the
8 higher those fees are going to be?

9 A. With all due respect, I didn't ask
10 for advice.

11 Q. You didn't ask for advice from
12 whom?

13 A. From you, sir.

14 Q. No, you didn't answer my question.
15 You realize, do you not --

16 A. I answered the question.

17 Q. -- the longer the case goes on, the
18 higher the fees are going to be?

19 A. Okay. I answered my question the
20 way I feel answering it. I didn't come here
21 to get business advice from you.

22 Q. So you do realize that, though,
23 don't you? What's funny? There's something
24 funny?

25 A. I don't -- I don't get where --

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1 what the question is all about.

2 Q. Okay. I'll move on to something
3 else.

4 Is it your position that Central
5 Park Partners believes that it's going to
6 validate plaintiff's previously recorded
7 first priority mortgage on this property?

8 A. I have no idea.

9 Q. Okay. Is this the only property
10 that Central Park Partners owns other than
11 the 51 East 73rd Street -- well, withdrawn.
12 Let me rephrase it.

13 Is the 900 Park Avenue property the
14 only property that Central Park Partners owns
15 other than the 51 East 73rd Street property?

16 A. I think so.

17 Q. Let me show you what we marked
18 previously as Exhibit 7 for identification,
19 which is the Answer and Affirmative
20 Defenses --

21 MR. BERMAN: Exhibit 7.

22 BY MR. SLADE:

23 Q. -- filed by Central Park Partners
24 in this action.

25

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1 A. Okay.

2 Q. Have you ever seen this document
3 before, sir?

4 A. I don't recall.

5 Q. Do you recall seeing this document
6 before, sir?

7 A. I don't recall.

8 Q. Do you recognize any of the
9 affirmative defenses that are being asserted
10 here?

11 A. I don't understand.

12 Q. Okay. In the document --

13 A. Yes.

14 Q. -- marked as Plaintiff's Exhibit 7
15 for identification, there are things called
16 "affirmative defenses." Do you see that?

17 A. Okay.

18 Q. Could you please review them and
19 tell me whether you've ever seen any of those
20 affirmative defenses before.

21 A. I have to discuss with my attorney.
22 I don't know.

23 Q. Either you saw them or you didn't.

24 A. I don't recall.

25 Q. Okay. Do you know what these

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1 affirmative defenses mean?

2 A. No.

3 Q. Have you ever been involved in a
4 similar foreclosure action regarding a
5 property that's being foreclosed in which you
6 have challenged the foreclosure either as an
7 individual or as part of a member of an
8 entity?

9 A. Never.

10 Q. Have you ever reviewed the docket
11 or ever -- have you been ever been shown the
12 docket that exists in this case such as filed
13 in the public records?

14 A. No.

15 Q. Have you ever made any efforts to
16 contact the condominium association about the
17 outstanding assessments?

18 A. I don't know.

19 Q. Who would know the answer to that?

20 A. Mendy Goldstein, my office. I
21 don't know.

22 MR. SLADE: Okay. I'm going to
23 take a break to talk with my client
24 about this and I'd like to try to finish
25 this up soon, so --

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1 MR. BERMAN: How long a break are
2 you going to take, Roger?

3 MR. SLADE: I'm going to take
4 probably 5 to 10 minutes, tops. And so
5 that you know -- and I discussed this
6 with Ms. Zeltser already -- I have a
7 court hearing at 3 o'clock. So
8 regardless, we're going to take a break
9 at that point, but I'm not foreseeing
10 this going that much longer.

11 MS. ZELTSER: Okay.

12 MR. SLADE: Okay? So we're going
13 to go off the record.

14 (Recess taken.)

15 BY MR. SLADE:

16 **Q. Are you ready, Mr. Goldstein --**

17 MR. BERMAN: No, wrong person.

18 MR. SLADE: I'm sorry, you're not
19 Mr. Goldstein. You're Mr. Spitzer. I
20 have Mr. Goldstein on my mind.

21 BY MR. SLADE:

22 **Q. Mr. Spitzer, are either you or your**
23 **company currently making any mortgage**
24 **payments on the 51 East 73rd Street property?**

25 **A. I have to check.**

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1 Q. You don't know?

2 A. I don't know.

3 Q. I'm sorry, I didn't hear you.

4 A. I don't know.

5 Q. Sir, do you have any other
6 properties that you own either in your
7 individual name or through a company on which
8 you are making mortgage payments?

9 A. Yes.

10 Q. So you understand, do you not, that
11 if there's an outstanding mortgage on a
12 property that you own, that you're obligated
13 to pay the bills, correct?

14 A. Correct.

15 Q. So why are you not paying the bills
16 with respect to the 900 Park Avenue property?

17 A. I didn't say it wasn't paid.

18 Q. Well, my client hasn't received a
19 mortgage payment from you or your company
20 since you took title. You're aware of that,
21 aren't you?

22 MS. ZELTSER: Do we have a
23 scheduled settlement discussion for
24 that? That's why.

25 MR. SLADE: Okay. So, Naomi, you

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1 want me to swear you in, too?

2 BY MR. SLADE:

3 Q. Can you answer my question?

4 A. What was the question?

5 Q. Well, you have other properties
6 that you make mortgage payments on, correct?
7 You told me that. What I'm asking you: Why
8 aren't you paying the bills for the mortgage
9 payments on this property that you own?

10 A. That's not my department. I have
11 to check.

12 Q. Even though you're the owner of the
13 property and the decision-maker of Central
14 Park Partners, it's not your department as to
15 whether you're paying the mortgage or any of
16 the other bills associated with the property;
17 that's your testimony?

18 A. Correct.

19 Q. Okay. Do you have any plans to pay
20 any of the bills in the future on this
21 property?

22 A. I have no plans, anything.

23 Q. What if -- what if there's a
24 problem with the toilet or the electricity,
25 are you planning to fix that?

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1 A. If it needs to be fixed, yeah.

2 Q. Just for clarification purposes,
3 can you confirm that the owner of the 51 East
4 73rd Street property is also Central Park
5 Partners?

6 A. I don't recall.

7 Q. Do you have any documents which
8 reflect the fact that Central Park Partners
9 or you or an entity which you own or control
10 took title to 51 East 73rd Street?

11 A. I don't know. Maybe.

12 Q. If there were documents, where
13 would those documents be?

14 A. With Mendy Goldstein, in my office.

15 Q. Is the 51 East 73rd Street property
16 in foreclosure?

17 A. I don't see what the relevance is.

18 MR. BERMAN: No, no. To your
19 knowledge, answer his question.

20 A. I don't know.

21 BY MR. SLADE:

22 Q. Who would know the answer to that?

23 A. Mendy Goldstein.

24 Q. Do you have any particular use in
25 mind for the 900 Park Avenue property such as

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1 **either to sell or rent it?**

2 A. Probably sell it.

3 **Q. Why do you say "probably"?**

4 A. Nothing is certain. This is not
5 the typical properties that I acquire.

6 **Q. What are the typical properties you**
7 **acquire?**

8 A. Development projects.

9 **Q. And so why did you acquire this**
10 **property if it's not typical?**

11 A. It's like I said, it was an add-on
12 to 73rd Street.

13 MR. SLADE: Okay. I have one
14 question for Mr. Berman. And -- but I
15 want to try to understand about
16 Mr. Berman's role in this case. I know
17 you've appeared at deposition
18 representing two officers -- or one
19 officer and an authorized agent for
20 Central Park Partners.

21 Are you making an appearance in
22 this case, Mr. Berman?

23 MR. BERMAN: I'm of counsel to
24 Ms. Zeltser.

25 MS. ZELTSE: Do you want him to

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1 file a notice of appearance of "of
2 counsel" to my office?

3 MR. SLADE: I didn't say that. I
4 just want to understand what his role
5 is.

6 MR. BERMAN: I am of counsel. I am
7 hired on a per diem basis when
8 Ms. Zeltser feels that she needs my
9 services.

10 MR. SLADE: Okay. I have no
11 further questions of the witness at this
12 time subject to our filing a motion to
13 compel answers to the questions for
14 which instructions were made not to
15 answer.

16 (Continued on next page to include
17 jurat.)

18

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1 MR. SLADE: So thank you very much,
2 Mr. Spitzer, it was nice meeting you.
3 I'm sure I'll meet you on some other
4 terms. Madam Court Reporter, Ms.
5 Takahashi, thank you very much. Naomi,
6 we'll talk again.

7 And we can go off the record for a
8 minute.

9 (Discussion off the record.)

10 (Time noted: 2:32 p.m.)

11

12

13

14

ARTHUR SPITZER

15

16 Subscribed and sworn to before me
17 this____ day of _____, 2020.

18

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25

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1

2

CERTIFICATE OF OATH

3

THE STATE OF NEW YORK)

4

)

COUNTY OF NEW YORK)

5

6

7

I, the undersigned authority,

8

certify that ARTHUR SPITZER appeared via Zoom

9

and was duly sworn on October 29, 2020.

10

11

Signed this 2nd day of November

12

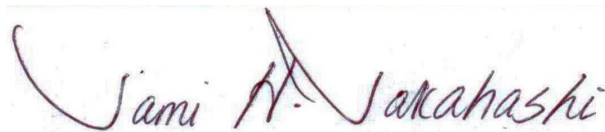
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17

Tami H. Takahashi, RPR
Registered Professional Reporter
Notary Public - State of New York
My Commission No. 01TA4964494
Expires: November 26, 2022

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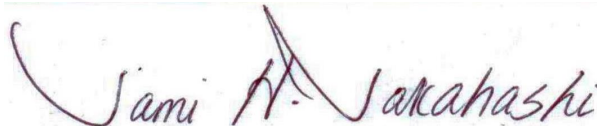
CERTIFICATE OF REPORTER

THE STATE OF NEW YORK)
COUNTY OF NEW YORK)

I, TAMI H. TAKAHASHI Registered Professional
Reporter, certify that I was authorized to
and did stenographically report the
deposition of ARTHUR SPITZER, Pages 1 through
76; that a review of the transcript was not
requested; and that the transcript is a true
and complete record of my stenographic notes.

I further certify that I am not a
relative, employee, attorney or counsel of
any of the parties, nor am I a relative or
employee of any of the parties' attorneys or
counsel connected with the action, nor am I
financially interested in the action.

Dated this 2nd day of November 2020.



Tami H. Takahashi, RPR
Registered Professional Reporter

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